1

3

4

6 7

8

9

10

11

12 13

14

15 16

17

18

19

20

21

2223

24

25

2627

28

# UNITED STATES DISTRICT COURT WESTERN DISTRICT OF WASHINGTON

#### **AT TACOMA**

CHRISTINE RENEE MCLAIN,	) Case No.
Plaintiff,	) ) COMPLAINT
VS.	) )
DANIEL N. GORDON, PC,	) JURY TRIAL DEMANDED
Defendant.	)

#### I. NATURE OF ACTION

1. This is an action for damages brought by an individual consumer for Defendant's violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.* (hereinafter "FDCPA") and of the Revised Code of Washington, Chapter 19.16, both of which prohibit debt collectors from engaging in abusive, deceptive, and unfair practices. Plaintiff further alleges a claim for invasion of privacy by intrusion, ancillary to Defendant's collection efforts.

Complaint - 1

10 11

12 13

14 15

16

17 18

19

20

21

22

2324

25

2627

28

#### II. JURISDICTION

2. Jurisdiction of this Court arises under 15 U.S.C. § 1692k(d).

#### III. PARTIES

- 3. Plaintiff, Christine Renee Mclain, is a natural person residing in the State of Washington, County of Pierce, and City of Tacoma.
- 4. Plaintiff is a "consumer" as defined by the FDCPA, 15 U.S.C. § 1692a(3), and a "debtor" as defined by RCW § 19.16.100(11).
- 5. At all relevant times herein, Defendant, Daniel N. Gordon, PC, ("Defendant") was a company engaged, by use of the mails and telephone, in the business of attempting to collect a "debt" from Plaintiff, as defined by 15 U.S.C. §1692a(5).
- 6. Defendant is a "debt collector" as defined by the FDCPA, 15 U.S.C. § 1692a(6), and a "licensee," as defined by RCW § 19.16.100(9).

#### IV. FACTUAL ALLEGATIONS

7. At various and multiple times prior to the filing of the instant complaint, including within the one year preceding the filing of this complaint, Defendant contacted Plaintiff in an attempt to collect an alleged outstanding debt. Defendant's conduct violated the FDCPA and RCW § 19.16 in multiple ways, including but not limited to:

Complaint - 2

- a. Falsely representing the character, amount, or legal status of Plaintiffs debt, including agreeing to settle the debt for \$1300 if paid by March 31st, and adding capricious additional money demands when Plaintiff paid the \$1300 approximately 1 week late, stating first that Plaintiff owed and additional \$100, then stating that if Plaintiff did not pay immediately it would rise to an additional \$325.00 (§ 1692e(2)(A));
- b. Using false representations and deceptive practices in connection with collection of an alleged debt from Plaintiff, including serving a summons and complaint on Plaintiff that simulated actual legal process, whereas no lawsuit had actually been filed in the court specified on the documents (§ 1692e(10));
- c. Failing to provide Plaintiff with the notices required by 15 USC § 1692g, either in the initial communication with Plaintiff, or in writing within 5 days thereof (§ 1692g(a));
- d. Where Defendant had not yet made an attempt to contact Plaintiffs counsel or had not given Plaintiffs counsel sufficient time to respond to the initial attempt to communicate with Plaintiffs counsel, and where Plaintiffs counsel had not given Defendant permission to contact Plaintiff directly, communicating with Plaintiff directly after learning that Plaintiff is being represented by counsel (§ 1692c(a)(2)).
- 8. Defendant's aforementioned activities, set out in paragraph 8, also constitute an intentional intrusion into Plaintiff's private places and into private matters of Plaintiff's life, conducted in a manner highly offensive to a reasonable person. With respect to the setting that was the target of Defendant's intrusions, Plaintiff had a subjective expectation of privacy that was objectively reasonable under the circumstances.

Complaint - 3

	l
1	
2	
3	
4	
5	
6	
7	
8	
9	
10	
11	
12	
13	
14	
15	
16	
17	
18	
19	
20	
21	
22	
23	
24	
25	
26	١

9. As a result of Defendant's behavior, detailed above, Plaintiff suffered and continues to suffer injury to Plaintiff's feelings, personal humiliation, embarrassment, mental anguish and emotional distress.

# COUNT I: VIOLATION OF FAIR DEBT COLLECTION PRACTICES ACT

10. Plaintiff reincorporates by reference all of the preceding paragraphs.

#### PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that judgment be entered against the Defendant for the following:

- A. Declaratory judgment that Defendant's conduct violated the FDCPA;
- B. Actual damages;
- C. Statutory damages;
- D. Costs and reasonable attorney's fees; and,
- E. For such other and further relief as may be just and proper.

# COUNT II: VIOLATION OF WASHINGTON COLLECTION AGENCY ACT, WHICH IS A PER SE VIOLATION OF THE WASHINGTON CONSUMER PROTECTION ACT

11. Plaintiff reincorporates by reference all of the preceding paragraphs.

Complaint - 4

27

28

1	
-	

# 2

# 45

# 6

# 7

# 9

# 10

## 11

## 12

## 13

# 14

## 15 16

#### 17

## 18

## 19

# 2021

# 22

### 24

23

#### 25

# 26

# 27

# 28 Complaint - 5

#### PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that judgment be entered against the Defendant for the following:

- A. Actual damages;
- B. Discretionary Treble Damages;
- C. Costs and reasonable attorney's fees,
- D. For such other and further relief as may be just and proper.

#### COUNT III: COMMON LAW INVASION OF PRIVACY BY INTRUSION

12. Plaintiff reincorporates by reference all of the preceding paragraphs.

#### PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that judgment be entered against the Defendant for the following:

- A. Actual damages
- B. Punitive Damages; and,
- C. For such other and further relief as may be just and proper.

Respectfully submitted this 17th day of June, 2009.

s/Jon N. RobbinsJon N. RobbinsWEISBERG & MEYERS, LLCAttorney for Plaintiff